

### **REMARKS/ARGUMENTS**

Claims 1-47 are pending. Claims 1, 2, 5-38, 41, 45 and 47 are withdrawn as being drawn to a non-elected invention. Claims 3, 4, 42 and 44 have been amended herein, and claim 43 has been cancelled. Support for the amendments is found, for instance, in as filed claims 4 and 42. The specification has been amended to correct a grammatical error and to remove browser-executable code. No new matter was added.

Claims 3, 4, 39, 40, 42, 44 and 46 are under examination.

#### **Claim objection**

Claim 3 is objected to for referring to claim 1 which is a non-elected invention. The amendment to claim 3 overcomes this objection.

#### **Specification objection**

The disclosure is objected to for containing an embedded hyperlink. The amendment to the specification overcomes this objection. The amendment is in accordance with MPEP 608.01 VII which states that “a hyperlink or a browser-executable code are a URL placed between these symbols "< >" and http:// followed by a URL address.” Thus, deletion of the “http://” means the recitation no longer contains browser-executable code.

#### **Response to Rejection under 35 U.S.C §112, 2<sup>nd</sup> paragraph**

Claims 3, 39, 40, 42-44 and 46 stand rejected under 35 U.S.C. §112, 2<sup>nd</sup> paragraph as being indefinite. The amendments to the claims render this rejection moot.

#### **Response to Rejection under 35 U.S.C. §112, 1<sup>st</sup> paragraph**

Claims 3, 39, 40, 42-44 and 46 stand rejected under 35 U.S.C. §112, 1<sup>st</sup> paragraph

as failing to comply with the written description requirement. However, the amendments to the claims render this rejection moot.

Response to Rejection under 35 U.S.C. §102

Claims 3, 4, 39, 40 and 42-44 stand rejected under 35 U.S.C. §102(a) as being anticipated by Gardner *et al.* (*Genomics*, 64, 46-59, 2000).

As averred in the attached declaration under 37 CFR 1.132, the work described in the Gardner *et al.* is entirely that of the inventors of the instant application. Therefore, this reference is not by *others* as stated in 35 U.S.C. §102(a) and is therefore not applicable.

Claims 3, 39 and 42-44 stand rejected under 35 U.S.C. §102(b) as being anticipated by Accession Number:AF055919, NCBI nucleotide database, 4/28/1999.

Accession No. AF055919 does not anticipate the claimed invention in claims 3, 39 and 42-44 as it does not teach SEQID No:1.

Response to Rejection under 35 U.S.C. §103

Claims 40 and 46 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Accession No. AF167987 as applied to claims 3, 39 and 42-44 above, and further in view of Naylor (*Biochemical Pharmacology*, 58, 749-757, 1999).

Accession NO. AF167987 is Applicant's submission of SEQ ID No. 1 to NCBI and was cited in the Gardner *et al.* (2000) reference (p. 47, first column, under "Cloning of a full-length Hunk cDNA"). Therefore, it is assumed that the Examiner meant to refer to Accession No. AF055919 which was cited in the above 102(b) rejection of claims 3, 39 and 42-44.

Accession No. AF055919 does not anticipate the claimed invention in claims 3, 39 and 42-44 as it does not teach SEQID No:1. Naylor is a review of reporter gene

technology. Naylor does not overcome the deficiency of Accession No. AF055919. Consequently, one of ordinary skill in the art could not combine the teachings of Accession No. AF055919 and Naylor to arrive at the claimed invention.

Applicants submit that the present invention, as claimed in amended Claims 3, 4, 39, 40, 42, 44 and 46, is novel and nonobvious over the asserted prior art. The claims remaining in the application are in condition for allowance. An early action toward that end is earnestly solicited.

Respectfully submitted,

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